

**ENTERED**

September 10, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

WILMINGTON TRUST, N. A.,

Plaintiff,

VS.

CARLOS AMARO, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:19-CV-144

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Plaintiff Wilmington Trust, N.A. acquired a property in a foreclosure sale.<sup>1</sup> Defendants Carlos Enrique Amaro and Odelia M. de Amaro owned and lived in the property before the sale, and after the sale refused to leave it. Various legal proceedings ensued, including this lawsuit, in which Wilmington seeks a declaratory judgment that it holds title to the property, as well as damages for trespass to realty.

Wilmington served Carlos Enrique Amaro and Odelia M. de Amaro. Neither filed a responsive pleading. Wilmington then moved for default judgment. (Motion, Doc. 24)

On August 20, 2020, the United States Magistrate Judge issued a Report and Recommendation (Doc. 32) recommending that Wilmington's Motion for Default Judgment be granted in part and denied in part. No party objected to the Report and Recommendation.

The Court **ADOPTS** the Report and Recommendation (Doc. 32). As a result, it is:

**ORDERED** that Plaintiff Wilmington Trust, N.A.'s Motion for Default Judgment is **GRANTED IN PART and DENIED IN PART**;

**ORDERED** that default judgment is entered in favor of Wilmington Trust, N.A. and against Carlos Enrique Amaro and Odelia M. de Amaro as to the cause of action for trespass to realty;

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<sup>1</sup> Wilmington brings suit as Successor Trustee to Citibank, N.A., as Trustee f/b/o Holders of Structured Asset Mortgage Investments II Inc., Bear Stearns ALT-A Trust 2007-3, Mortgage Pass-Through Certificates, Series 2007-3.

**ORDERED** that title to the real property located at 5 Mesquite Branch, Brownsville, Cameron County, Texas 78521 and more particularly described as:

**LOT ONE (1), BLOCK TWO (2), MESQUITE GROVE NO. II  
SUBDIVISION, CITY OF BROWNSVILLE, CAMERON COUNTY,  
ACCORDING TO MAP OF SAID SUBDIVISION, RECORDED IN  
CABINEY 1, PAGES 1241-B, MAP RECORDS OF CAMERON  
COUNTY, TEXAS**

is vested and held by Plaintiff, Wilmington Trust, N.A., Successor Trustee to Citibank, N.A., as Trustee f/b/o Holders of Structured Asset Mortgage Investments II Inc., Bear Stearns ALT-A Trust 2007-3, Mortgage Pass-Through Certificates, Series 2007-3, in fee simple absolute;

**ORDERED** that Wilmington Trust, N.A.'s cause of action for trespass to try title is **DISMISSED WITHOUT PREJUDICE**;

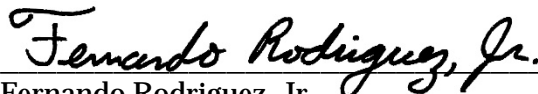
**ORDERED** that all causes of action by Wilmington Trust, N.A. against Other Occupants of 5 Mesquite Branch, Brownsville, Texas 78520-8444 are **DISMISSED WITHOUT PREJUDICE**;

**ORDERED** that Wilmington Trust, N.A.'s request for attorney's fees is **DENIED**; and

**ORDERED** that the Clerk of the Court shall issue the Writ of Possession in the form attached to this Order.

It is also **ORDERED** that by no later than September 18, 2020, Wilmington Trust, N.A. shall submit a supplemental brief and any relevant evidence demonstrating that its requested damages on its claim for trespass to realty are consistent with the fair market rental value of the property at issue. The Court will consider the brief and evidence for purposes of its Final Judgment.

SIGNED this 10th day of September, 2020.

  
Fernando Rodriguez, Jr.  
United States District Judge